

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 155 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME-TAX

Versus

PURE BEVERAGES PVT. LTD.

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Appearance:

MR MANISH R BHATT for Petitioner  
UNSERVED for Respondent No. 1

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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

Date of decision: 13/02/98

ORAL JUDGEMENT

The following question is referred to this Court for its opinion under section 256(1) of the Income-tax Act, 1961 at the instance of Revenue.

Whether, the Appellate Tribunal is right in law  
and on facts in allowing 100% depreciation in  
respect of the cost of containers amounting to  
Rs. 11,48,602/- ?

2. The question whether the bottles and  
crates i.e. containers used by the assessee who was  
doing the business of manufacturing and selling soft  
drinks were eligible for depreciation allowance under  
section 32 (1)(ii) of the said Act has been decided by us  
today in ITR No. 206 of 1985. We have taken the view  
that bottles and shells (crates) of the assessee which  
were used for his business were plant and therefore, the  
assessee could claim depreciation under section 32(1)(ii)  
of the said Act. Since the facts and the point involved  
are same, we do not reproduce the facts of this case from  
its record. Following our decision in ITR No. 206 of  
1985, we hold that the Tribunal was right in coming to  
the conclusion that the containers consisting bottles and  
crates were plant under the relevant provisions of  
Income-tax Act, 1961. The question referred to us is  
therefore, answered in the affirmative, in favour of the  
assessee and against Revenue. The Reference stands  
disposed of accordingly with no order as to costs.

(R.K.Abichandani,J)

(Kundan Singh,J)

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